

Ordinance No.1659-12

Council Members Conwell and Mitchell

AN EMERGENCY ORDINANCE

To amend Section 403.99 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No.672-12 passed June 4, 2012, relating to Traffic Code Misdemeanor Classifications and Penalties

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That Section 403.99 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 672-12, passed June 4, 2012, is hereby amended to read as follows:

Section 403.99 Traffic Code Misdemeanor Classifications and Penalties

(a) *Misdemeanor Classifications.*

(1) *General Classification.* Whoever violates any provision of this Traffic Code or any regulation lawfully adopted pursuant thereto, for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor on a first offense; on a second offense within one (1) year after the first offense, such person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one (1) year after the first offense such person is guilty of a misdemeanor of the third degree. (RC 4511.99). When any person is found guilty of a first offense for violation of Section [433.03](#), upon a finding that he or she operated a motor vehicle in excess of the posted speed limit by ten (10) miles an hour or more, such person is guilty of a misdemeanor of the fourth degree. When any person is found guilty of a violation of division (b) (9) of Section [433.03](#), in addition to all other penalties provided by law, such person shall be fined two (2) times the usual amount imposed for the violation.

(2) *Street Racing.* Whoever violates Section [433.07](#) is guilty of a misdemeanor of the first degree.

(3) *Licensing Drivers.* Whoever violates any provision of Sections [435.01](#) to [435.07](#), inclusive, is guilty of a misdemeanor of the first degree.

(4) *Accidents.* Whoever violates any provision of Sections [435.15](#) to [435.17](#), inclusive, is guilty of a misdemeanor of the first degree.

(5) *Willfully Fleeing a Police Officer.* Whoever violates division (b) of Section [403.02](#) is guilty of a misdemeanor of the first degree.

(6) *Stopping for School Buses.* Whoever violates division (a) of Section [431.38](#) is guilty of a misdemeanor of the first degree.

(7) *Placing Dangerous Material on Streets.* Whoever violates division (e) of Section [411.01](#) is guilty of a misdemeanor of the first degree.

(8) *Bicycle Safety Violations.* Whoever violates divisions (d) and (e) of Section [431.03](#), division (e) of Section [431.08](#), division (e) of Section [431.10](#), and Section [451.07](#) is guilty of a minor misdemeanor on a first offense; on each subsequent offense within one (1) year of the first offense such person is guilty of a misdemeanor of the fourth degree; if such a violation causes a collision between a motor vehicle and a bicycle, such person is guilty of a misdemeanor of the third degree.

(b) *Penalties.* Whoever is convicted of or pleads guilty to a violation of this Traffic Code shall be imprisoned for a definite term or fined, or both, which term of imprisonment and fine shall be fixed by the court as provided in this section.

Misdemeanor Classification	Maximum Imprisonment Term	Maximum Fine
1st degree	6 months	\$1,000.00
2nd degree	90 days	\$750.00

3rd degree	60 days	\$500.00
4th degree	30 days	\$250.00
Minor	None	\$150.00

(RC 2929.21)

(c) *License Suspension.*

(1) The trial judge of the Cleveland Municipal Court, in addition to or independent of all other penalties provided by law or ordinance, shall suspend for not less than thirty (30) days nor more than three (3) years or revoke the driver's or commercial driver's license or permit or nonresident operating privileges of any person who is convicted of or pleads guilty to any of the following:

A. Division (a) of Section [431.38](#);

B. Sections [435.01](#) to [435.07](#), inclusive;

The trial judge, in addition to suspensions or revocations of licenses, permits, or privileges pursuant to this division and in addition to or independent of all other penalties provided by law or by ordinance, shall impose a suspended jail sentence of not to exceed six (6) months, if that imprisonment was not imposed for the offense for which the person was convicted.

(2) The trial judge of the Cleveland Municipal Court, in addition to or independent of all other penalties provided by law or ordinance, shall suspend or revoke the driver's or commercial driver's license or permit or nonresident operating privileges of any person who is convicted of or pleads guilty to a violation of division (b) of Section [433.01](#). The length of the suspension or revocation imposed by the trial judge upon a person who is convicted or pleads guilty to a violation of division (b) of Section [433.01](#) shall be the same as that imposed pursuant to division (B) of RC 4507.16 upon a person who is convicted of or pleads guilty to a violation of RC 4511.19, or a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine.

(3) The trial judge of the Cleveland Municipal Court may, in addition to or independent of all other penalties provided by law, suspend the license of any person for not more than fifteen (15) days who is convicted of or pleads guilty to a violation of operating a motor vehicle faster than five (5) miles per hour in excess of the prima-facie speed limits specified in Section [433.03](#) relating to passing a school building or grounds or operating a motor vehicle in a residential district. For any subsequent conviction of any such provision, the trial judge shall, in addition to or independent of all other penalties provided by law, suspend the license of any person for not more than thirty (30) days who is convicted of or pleads guilty to any offense specified in this division. The first five (5) days may not be suspended by the Court.

Section 2. That existing Section 403.99 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 672-12, passed June 4, 2012, is hereby repealed.

Section 3. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

11/26/12
KC:rns

